

IN THE UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

Sarasota Wine Market, LLC, <i>et al.</i>)	
<i>Plaintiffs</i>)	Case no. 4:17-cv-02792-HEA
)	
vs)	
)	
Eric R. Greitens, <i>et al.</i>)	
<i>Defendants</i>)	

**PLAINTIFFS' NOTICE OF RECENT AUTHORITY PERTINENT TO
DEFENDANTS' MOTION TO DISMISS**

Plaintiffs bring to the Court's attention a recent opinion which is pertinent to the issues raised in Defendants' pending motion to dismiss (Dkt. No. 17), but was decided after briefing on the motion was finished -- *Byrd v. Tennessee Wine & Spirits Retailers Ass'n*, 2018 WL 988931, 2018 U.S. App. LEXIS 4081 (6th Cir., February 21, 2018).

The State's motion to dismiss contends that all state laws regulating alcoholic-beverage retailers are exempt from the nondiscrimination principle of the Commerce Clause, relying on *Southern Wine & Spirits of Am., Inc. v. Div. of Alcoh. & Tobacco Control*, 731 F.3d 799 (8th Cir. 2013). In *Byrd*, the Sixth Circuit reviewed *Southern Wine* but did not find it persuasive authority for a blanket rule immunizing retailer laws from Commerce Clause scrutiny. Rather, the constitutionality of a facially discriminatory liquor law depends on whether the state can prove that the discrimination is so closely related to its 21st Amendment interests that no reasonable non-discriminatory alternative would achieve its regulatory purposes.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2018, the foregoing document was filed electronically with the Clerk of the Court and will be served on the attorney for all defendants through the Court's electronic filing system to:

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